

Service Date: April 21, 1993

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER Of the Application)	UTILITY DIVISION
of the City of Forsyth to Increase)	
Rates and Charges for Water Service)	DOCKET NO. 92.11.76
in the Forsyth, Montana, Service)	
Area.)	ORDER NO. 5703

FINAL ORDER GRANTING WATER RATE INCREASE APPLICATION

APPEARANCES

FOR THE APPLICANT:

John Forsythe, City Attorney City of Forsyth, P.O. Box 226,
Forsyth, Montana 59327

FOR THE INTERVENORS:

Mary Wright, Staff Attorney, Montana Consumer Counsel, 34
West Sixth Avenue, P.O. Box 201703, Helena, Montana 59620-
1703

FOR THE COMMISSION:

Martin Jacobson, Staff Attorney, 1701 Prospect Avenue, P.O.
Box 202601, Helena, Montana 59620-2601

G. Joel Tierney, Rate Analyst, 1701 Prospect Avenue, P.O.
Box 202601, Helena, Montana 59620-2601

BEFORE:

DAVE FISHER, Commissioner
NANCY MCCAFFREE, Commissioner, Presiding
DANNY OBERG, Commissioner

BACKGROUND

1. On November 30, 1992 the Montana Public Service Commission (PSC) received an application from the City of Forsyth (City) for authority to increase rates for water service to its customers. The City requested an average increase of approximately 12 percent, representing an increase of approximately \$33,206.64 in annual revenues.

2. As part of its application, the City submitted a copy of a resolution passed by a unanimous vote of the its council on November 13, 1992. It stated that engineering studies prepared for the City demonstrated a need for a capital improvement program for City water facilities. The accounting projections indicated that the rates and charges in effect would not provide adequate revenues to meet requirements of a Montana Department of Natural Resources and Conservation (DNRC) loan, which would be used to fund the capital improvement program.

3. On December 9, 1992 the PSC issued a Notice of Opportunity for Public Hearing. The PSC received protests and requests for a hearing. On March 24, 1993 a public hearing before the PSC was held in Forsyth.

FINDINGS OF FACT

General

4. The requests for hearing (over 40 were received) generally expressed protest of the City rate increase on a variety of

bases. Several protestants commented that the City has already had a number of rate increases in the last several years. Several commented that the City had recently (several months earlier) implemented its own 12 percent increase, which was satisfactory to the city council when the budget was approved. Most of the protestants commented that the resulting cost of multiple rate increases cannot be easily absorbed by the ratepayers, particularly those of single parent or limited or fixed income status. Several commented that the request is simply unfair, that they should be entitled to know the reasons and have an opportunity to comment. Several commented that they believe that the public has been excluded from City rate change discussions and decisions. Several asserted that funds available to the City water department have not been properly applied.

5. At the technical evidentiary phase of the hearing the City presented the testimony and exhibits of Warren J. Becker, Mayor, and Daniel D. Watson, City Clerk. These witnesses generally testified on the need for the proposed capital improvements, the financing of the proposed capital improvements, debt service obligations, current funding sources of the water utility, and the proposed rate structure. Mayor Becker also testified that compliance with the changing and expanding regulatory environment of city water services (primarily EPA and Safe Drinking Water Act regulations), plus rehabilitation and refurbishing and upgrading of the City's deteriorating system, have necessitated the rate

increase. Mr. Watson testified in general support and verification of the City's application, being the principal witness responsible for the technical portion of the City's application.

6. At the public testimony phase of the hearing three public witnesses presented testimony. Two persons, David Wyrick, city water supervisor, and Bill Schwarzkoph, city councilman, testified for the rate increase. Mr. Wyrick testified, in regard to the requirement for reserves, as to examples of various new equipment requirements that the City from time to time must install as regulatory requirements change -- a chlorine analyzer and steel curtain or baffles being several recent requirements. Mr. Schwarzkoph testified in general support of the application.

One person, Paula Seliski, service customer, testified against the rate increase. Ms. Seliski testified in general opposition to the rate increase, repeating many of the concerns expressed by the public in requests for hearing, and, also, that the City has had funds available that have been applied elsewhere.

Capital Improvement Plan

7. The City has set forth a proposed capital improvement program for its water utility. The total estimated cost of the capital improvements as outlined by the City is \$1,773,483. However, the City is proposing to implement the plan or project in four phases, with the present application before the PSC generating additional revenues to cover phase I. The proposed

costs associated with phase I improvements include: flocculation basin and rapid mix -- \$162,964; chemical feeders and automatic controls -- \$119,967; low service, high service, backwash and surface pumps -- \$46,137; and total construction and engineering -- \$329,068.

8. The City's technical witnesses and the two city public witnesses also testified that significant other requirements have been encountered since the filing of this application. Certain pieces of equipment must be purchased in order to maintain the City's current level of water quality or meet new federal and state water quality requirements. The witnesses testified that any reserves that might accumulate would be used for these purposes.

9. The PSC finds, based upon the testimony in this Docket, including the absence of technical challenge to the program, that the capital improvement program as proposed by the City is reasonably prudent and, therefore, accepts the assertion that the improvements outlined in the filing need to be made.

Debt Service

10. The City proposes to finance the capital improvements to the water system outlined in this proceeding through a loan from DNRC. The loan will have a term of 20 years and carry a maximum interest rate of 6.5 percent. The revenues must be 125 percent of the debt service. The PSC finds that a 125 percent

coverage ratio is a standard requirement and, therefore, accepts it.

Operation and Maintenance

11. The test year operation and maintenance expenses totalling \$206,079.53 were not challenged by any party participating in this proceeding. The test year operation and maintenance expenses presented by the City are accepted by the PSC.

Revenue Needed

12. The City indicated that, under present rates, annual revenue generation would be \$272,940. The test period operating revenues were not contested and are accepted by the PSC.

Rate Design

13. The City's proposed rate design was not challenged by any party participating in this proceeding. The PSC's examination of the rate structure indicates that the City has attempted to equitably distribute the cost of providing service to the various customer classifications and it is accepted.

Customer Numbers

14. At hearing the Montana Consumer Counsel raised a question of customer numbers. If, in the City's calculations of rates necessary to meet revenues, the City used less customers

than actual, the rates (per customer) would be higher and result in excess revenues. As alluded to by the City, it is difficult to establish with absolute certainty, the number of customers at any given time -- there are periods of increase and decrease in customer numbers. Late filed exhibits demonstrate that the City's most recent count of customer numbers is less than that used in its supporting calculations. Given this, the related testimony, and the absence of contradictory testimony, the PSC finds that the numbers used by the City are a reasonably reliable basis for rate design determination under the circumstances.

Public Comment and Testimony

15. All public testimony in opposition of, or support of, the City's rate increase is appreciated by the PSC. Although the PSC ultimately concludes that the City's request should be granted, it takes this opportunity to express a concern over several matters. The City should be cognizant of the public's concerns and it must listen to them and consider them. If the City engages in another water service rate change at the municipal level, it is advised that the City pay close attention to the municipal water rate change notice and hearing requirements established in Sections 69-7-111 and 69-7-112, MCA. Additionally, if the City obtains funds that can be used for public service purposes, it might be well advised to consider applying those funds in contribution to essential services like water and sewer

services to lessen the burden on ratepayers.

CONCLUSIONS OF LAW

1. The City of Forsyth is a public utility as defined in Section 69-3-101, MCA. The Montana Public Service Commission properly exercises jurisdiction over the City's rates. See, Title 69, Chapter 7, MCA.

2. Public notice, an opportunity to be heard, and hearing have been provided and properly conducted, as required by Section 69-3-303, MCA, and Title 2, Chapter 4, MCA.

3. The revenues approved in this order are just and reasonable. See, Sections 69-3-201, and 69-3-330, MCA.

ORDER

IT IS HEREBY ORDERED THAT:

1. The rates as filed by the City with its application are authorized by the PSC.

2. The rates shall be effective for service rendered on and after April 15, 1993.

DONE IN OPEN SESSION at Helena, Montana on this 15th day of April, 1993, by a 3-0 vote.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Commissioner

NANCY MCCAFFREE, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.